

# SOUTH DAKOTA

**Citation** Assisted living centers, Article 44:04 et seq.

## ***General Approach and Recent Developments***

Regulations for assisted living centers are part of the chapter pertaining to medical facilities. Regulations were revised in December 2001 and further minor revisions to the regulations were final in December 2002.

The State is currently revising assisted living rules relating to the Life Safety Code. Changes will allow assisted living centers co-located with a nursing facility or other medical facility to share staff as it relates to the Life Safety Code. Additionally, assisted living centers that have sprinkler systems installed and show consistent adequate evacuation times will receive a reduced staffing ratio as it relates to the Life Safety Code.

The State's Medicaid waiver program will be amended in 2004 to include assisted living. Currently, the Medicaid waiver program only allows for medication administration in assisted living centers. The Personal Needs Allowance will increase in FY 2005.

Category	Supply					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living centers	162	3,360	153	3,084	127	NR

## ***Definition***

An *assisted living center* is defined as “any institution, rest home, boarding home, place, building, or agency which is maintained and operated to provide personal care and services which meet some need beyond basic provision of food, shelter, and laundry to five or more persons in a free standing, physically separated facility.”

## ***Unit Requirements***

In newly constructed or renovated facilities, there must not be more than two residents per room. In single bedrooms, there must be a minimum area of 120 square feet, and in rooms with two beds there must be at least 200 square feet. Each resident room must have a toilet room and lavatory.

## ***Admission/Retention Policy***

Prior to admission, residents must submit written evidence from their physician of a physical examination certifying that they are in reasonable good health and free from communicable disease, chronic illness, or disability which requires any services beyond supervision, cueing, or limited hands-on physical assistance to carry out normal activities of daily living and instrumental activities of daily living. The assisted living center must conduct an evaluation of each resident's care needs at the time of admission, 30 days after admission, and annually thereafter, to determine the facility can meet the needs for each resident. The rules specify the contents of the evaluation.

Assisted living centers may not admit or retain residents who require more than intermittent nursing care or rehabilitation services. Facilities that admit or retain residents who require administration of medications must employ or contract with a licensed nurse who reviews resident care and conditions at least weekly and a registered nurse or pharmacist who provides medication administration training to unlicensed assistive personnel who administer medications.

A call system is required for facilities serving people who cannot walk independently. Other requirements affect facilities serving people needing therapeutic diets, people who are not capable of self-preservation, or who need oxygen.

The resident may remain in the facility and may not be transferred or discharged unless the resident's needs and welfare cannot be met by the facility, the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of individuals in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate.

## ***Nursing Home Admission Policy***

The medical review team may assign an individual to a nursing facility level of care classification if the individual requires any of the following services:

1. Continuing direct care services which have been ordered by a physician and can only be provided by or under the supervision of a professional nurse. These services include daily management, direct observation, monitoring, or performance of complex nursing procedures. For purposes of this rule, continuing care is repeated application of the procedures or services at least once every 24 hours, frequent monitoring, and documentation of the individual's condition and response to the procedures or services;
2. The assistance or presence of another person for the performance of any activity of daily living according to an assessment of the individual's needs completed according to §44:04:06:15; or
3. In need of skilled mental health services or skilled therapeutic services, including physical therapy, occupational therapy, or speech/language therapy in any combination that is provided at least once a week.

## ***Services***

Skilled nursing services or rehabilitation services provided to residents of assisted living centers must be limited to less than eight hours per day and 28 or fewer hours each week. The service providing the care must specify a planned completion date based on the assessments conducted. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any non-employed, non-contracted skilled nursing and therapy providers. Centers must provide supportive services, activities, and services to meet the spiritual needs of residents. Outside services utilized by residents must comply with and complement facility care policies. Assisted living centers must provide for the availability of physician services. All residents must be seen by a physician at least once a year.

## ***Dietary***

At least three meals must be served daily at regular times. The facility must provide environmental and social accommodations for each patient or resident to encourage eating in the common dining area. Assistance must be provided for patients or residents in need of help in eating.

There must be an organized dietetic service that meets the daily nutritional needs of residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with the rules. The dietetic service must ensure that food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances. Reasonable substitutions of equal nutritional value must be available to offer patients or residents who refuse or are unable to eat the food served. A current diet manual including basic nutrition information must be available in all assisted living centers.

Centers admitting residents that need special diets that cannot be developed using a simplified diet manual must employ or contract with a dietician who shall approve written menus and diet extensions, approve special diet needs, plan individual diets, and provide guidance to dietary staff in areas of preparation, service, and monitoring. The frequency of visits is determined by the residents' needs and the center's ability to implement diets correctly.

## ***Agreements***

Resident agreements must be signed upon move-in and must describe the services available and the charges; other services offered and the additional charges; policies for protection of personal funds; a list of names, addresses, and phone numbers of client advocates; description of the process for filing a complaint concerning abuse, neglect, and misappropriation of funds; how to contact the resident's physician; how to apply for Medicaid and Medicare; the center's bed hold policy; and the responsibilities of

residents and family concerning self-administration of medications. Legislation passed in 2001 (SB 244) requires disclosure of charges for resident care and accommodations.

### ***Provisions for Serving People with Dementia***

Facilities that admit or retain residents with cognitive impairments must have the resident's physician determine and document if services offered by the facility continue to enhance the functions in ADLs and identify if other disabilities and illnesses are having an impact on the resident's cognitive and mental functioning. All staff members must attend an annual in-service training in the care of the cognitively impaired and those with unique needs. Such facilities must have exit alarms. The facility must be licensed for medication administration.

### ***Medication Administration***

Centers serving people who require administration of medication must employ or contract with a licensed nurse who reviews resident care and conditions at least weekly and with a registered nurse or pharmacist who provides medication administration training. Aides who have passed required training may administer medications.

A resident with the cognitive ability to understand may self-administer medications or instruct another responsible person to administer the resident's medications. At least every three months, the supervising nurse or the physician must evaluate and record the continued appropriateness of the resident's ability to self-administer medications.

Concerns exist with facilities who establish policies requiring medication administration versus allowing a resident to self-administer medications by choice and ability. The State wishes to encourage resident independence, rather than require a person to have medications administered by staff.

### ***Public Financing***

Services for elders are covered by a state optional supplement program and a limited HCBS waiver. The state optional supplement program is not a state supplement to the SSI payment. It serves Medicaid eligible adult and elderly beneficiaries who meet assisted living level of care criteria, as described in Chapter 67, Section 45:01:04 of the state administrative rules. The payment rate for room, board and services is \$1,094 a month, up from \$1,019 a month in 2002. The state program supplements resident funds up to the monthly rate. Ninety facilities participate in the state program and serve 227 beneficiaries.

The Medicaid HCBS waiver covers a single service, medication administration, in assisted living centers. Individuals must be 65 years of age or older, financially eligible and meet nursing home level of care criteria. Centers receive a total payment of \$43.92 per day or \$1,317 a month (30 days) which includes a room and board payment of \$534

(the resident keeps \$30 for personal needs allowance) from the resident and the Medicaid payment for medication administration services. Family supplementation is not allowed for either the state optional supplement or the Medicaid HCBS waiver programs. Individuals may not participate in both programs simultaneously. One hundred and forty facilities participate in the Medicaid waiver program and serve 500 residents.

Participation (State and Medicaid Programs)						
Program	2004		2002		2000	
	Facilities	Participants	Facilities	Participants	Facilities	Participants
State	90	227	NR	NR	NR	NR
Medicaid	140	500	110	250	110	165

## ***Staffing***

All assisted living centers must maintain one staff person on duty at all times and a minimum of 0.8 hours of direct resident care by personnel of the center for each resident for each 24-hour period. For facilities with ten or fewer beds, one staff person is permitted during sleeping hours. This staff person may sleep if: the facility fire alarm is adequate to alert staff, a staff call system is available, the staff bedroom has an egress window, and the residents are capable of prompt evacuation. For facilities with 11 to 16 beds, one staff person who is awake is required during sleeping hours.

## ***Training***

*Administrator.* The administrator must have a high school diploma or equivalent and, if hired after July 1, 1995, must complete a 75-hour training program and competency evaluation. The areas covered include: communication and interpersonal skills; infection control; safety/emergency procedures; promoting resident independence; and respecting resident rights. Additional topics cover: basic nursing skills; personal care skills; mental health and social services; care of cognitively impaired residents; basic restorative services; and resident rights.

*Staff.* The facility must have a formal orientation program and an ongoing education program for all personnel. These programs must include the following subjects:

- Fire prevention. The facility must hold at least one fire drill for each shift each quarter;
- Emergency procedures;
- Infection control and prevention;
- Accident prevention and safety procedures;
- Proper use and documentation of restraints;
- Resident rights;
- Confidentiality of resident information;
- Incidents and diseases subject to mandatory reporting and the facility's reporting mechanism; and

- Care of the cognitively impaired and of those patients or residents with unique needs.

The person-in-charge of dietary services shall possess a current certificate from a ServSafe Food Protection Course, the Certified Food Protection Professional's Sanitation Course from the Dietary Managers Association, or equivalent training determined by the Health Department.

### ***Background Check***

A facility may not knowingly employ any person with a conviction for abusing another person.

### ***Monitoring***

The governing body of the facility must provide for an ongoing evaluation of the quality of services provided to residents. Quality assurance evaluations must include the establishment of facility standards, interdisciplinary review of resident services to identify deviations from the standards and plans of correction, resident satisfaction surveys, utilization of services provided, and documentation of the evaluation.

The State provides extensive education and support to facilities regarding quality of care and compliance with regulations. Licensing staff are invited regularly to present at the semi-annual association meetings. The state licensing office distributes to facilities up-to-date information concerning quality and trends in assisted living. The State has established a public hearing process at least annually where providers are able to address issues with the State in an open forum.

### ***Fees***

\$100 plus \$3 for each licensed bed.

# STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

## PDF Files Available for This Report

Cover, Table of Contents, and Acknowledgments

<http://aspe.hhs.gov/daltcp/reports/04alcom.pdf>

SECTION 1: Overview of Residential Care and Assisted Living Policy

<http://aspe.hhs.gov/daltcp/reports/04alcom1.pdf>

SECTION 2: Comparison of State Policies <http://aspe.hhs.gov/daltcp/reports/04alcom2.pdf>

SECTION 3: State Summaries <http://aspe.hhs.gov/daltcp/reports/04alcom3.pdf>

**Also available:** A complete list of sections and tables, with HTML and PDF links to each, is available at <http://aspe.hhs.gov/daltcp/reports/04alcom.htm>. This table of contents also includes links to Section 3 summaries, broken down by state.